

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

OCT 4 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOREST S. WHITAKER; KEISHA
WHITAKER,

Petitioners-Appellants,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent-Appellee.

No. 16-73450

Tax Ct. No. 18639-15L

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted September 26, 2017**

Before: SILVERMAN, TALLMAN, and N.R. SMITH, Circuit Judges.

Forest S. Whitaker and Keisha Whitaker appeal from the Tax Court's summary judgment allowing the Commissioner of Internal Revenue ("Commissioner") to proceed with its collection action for the Whitakers' federal income tax liability for tax year 2013. We have jurisdiction under 26 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

§ 7482(a)(1). We review de novo. *Miller v. Comm'r*, 310 F.3d 640, 642 (9th Cir. 2002). We affirm.

Because the Tax Court properly determined that the Settlement Officer did not abuse his discretion in rejecting the Whitakers' request for an installment agreement, the Tax Court properly granted summary judgment for the Commissioner. *See* 26 U.S.C. § 6159; 26 C.F.R. § 301.6159-1(b)(1)(i) (IRS Settlement Officer has discretion to accept or reject any proposed installment plan); *see also* 26 U.S.C. § 6330(c)(3) (Settlement Officer must decide "whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.").

We reject as without merit the Whitakers' contention that the IRS Office of Appeals was biased.

AFFIRMED.